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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/616,426

07/14/2000

Wallace J. Beaudry

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DIVI

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09/30/2003

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EXAMINER

LEWIS, KIM M

ART UNIT

PAPER NUMBER

3761

DATE MAILED: 09/30/2003

15

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/616,426

Applicant(s)

BEAUDRY, WALLACE J.

Examiner

Kim M. Lewis

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/14/00, 1/24/01, 7/27/02 and 8/29/02.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-25 and 104-114 is/are pending in the application.
- 4a) Of the above claim(s) 104-114 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. 09/180,572.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,3,8-11.
- ☒ Interview Summary (PTO-413) Paper No(s). attached.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☒ Other: Detailed Action.

DETAILED ACTION

Summary

The preliminary amendment filed 7/14/00 canceling claims 1-12 and 26-103 has been entered. The preliminary amendment filed 1/24/01 amending the continuing data in the specification has been entered. The preliminary amendment filed 7/27/02 adding claims 104-114 has been entered. Finally, the preliminary amendment filed 8/29/02 amending the continuing data in the specification has been entered.

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 13-25, drawn to an epidermal positioning system and an epidermal positioning mechanism, classified in class 602, subclass 54.
 - II. Claims 104-114, drawn to a method of moving a first predetermined epidermal area relative to a laterally spaced second predetermined epidermal area, classified in class 606, subclass 215+.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the product can be used in

a materially different process of using, such as, for example, the process of taping two pieces of paper together.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, the search required for Group I is not required for Group II, therefore restriction for examination purposes as indicated is proper.

2. During a telephone conversation with Laura Dable on September 15, 2003 a provisional election was made with traverse to prosecute the invention of Group I, claims 13-25. Affirmation of this election must be made by applicant in replying to this Office action. Claims 104-114 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Objections

3. Claim 25 is objected to because of the following informalities: the recitation "comprising one of the group" should read --selected from the group-- in order to conform to standard US practice. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

5. Claims 14 -17 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As regards claim 14, lines 1-2, "at least one end piece" lacks proper antecedent basis since the applicant only recites "a first end piece".

As regards claim 16, lines 1-2, "at least one the end piece " is not understood. The examiner will assume that the recitation should read "at least one end piece" in which case the recitation lacks antecedent basis since only "a first end piece" is recited.

As regards claim 17, "the second end piece" lacks proper antecedent basis.

The remaining claim is necessarily rejected as being dependent upon a rejected base claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 13, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,116,675 ("Nash-Morgan").

As regards claim 13, Nash-Morgan discloses a disposable, elasticized adhesive neck and facial wrinkle gathering device, which positions the epidermal layer of the skin.

The device comprises an elastic material (12), a first end piece (14) and a second piece (16) (Fig. 1 and col. 2, lines 41-54).

As regards claim 16, the first end piece is an anchoring mechanism in that it is anchored to the skin.

As regards claim 17, the second piece is a lifting end piece in that it can be lifted to remove the device from the skin of the user.

8. Claims 13 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,052,381 ("Gilbert et al.").

As regards claim 13, Gilbert et al. disclose an adhesive wound dressing and perforated shield, which is **capable** of being used as an epidermal positioning system, and which reads on the instant claim.

More specifically, Gilbert et al. disclose an elastomeric backing film (12) having a first end piece, a middle portion, and second end, all of which are integrally coupled. Gilbert et al. further disclose a biocompatible adhesive layer (11) coated on one side of the backing film and an absorbent pad (40).

As regards claim 18, Gilbert et al. disclose that the pad, which is attached to one side of the backing film has a medicinal agent thereon.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the

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subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

11. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Nash-Morgan in view of U.S. Patent No. 5,820,578 ("Johansen").

As regards claim 14, both the first end piece and the second piece of the device Nash-Morgan have first and second sides and an adhesive material placed on the first side of both pieces.

In further regard to claim 14, Nash-Morgan fails to teach a plurality of slits having a predetermined shape. Johansen, however, discloses a bandage capable of being used as a skin positioning device, comprising slits in the end pieces for the purpose of better fitting the device peculiar areas of the body.

In view of Johansen, it would have been obvious to one having ordinary skill in the art to modify Nash-Morgan by adding slits to the end pieces in order to better fit the device to peculiar areas of the user's skin.

As regards claim 15, Johansen fails to teach the slit is u-shaped. However, the examiner contends changing the shape of the slit in the end pieces of Johansen requires only routine skill in the art, and one having ordinary skill in the art would have been motivated to change the shape of the slit to a u-shape or any other shape in order to better contour the bandage to a peculiar portion of a user's body.

12. Claim 19-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 1,230,445 ("Teed et al.") in view of U.S. Patent No. 5,534,010 ("Peterson").

As regards claim 19, Teed et al. disclose an epidermal positioning device in the form of a surgical adhesive strip that substantially reads on the instant claim. Specifically, Teed et al. disclose bandage structure (3) having a first end and a second end, a first material (6) coupled to the first end and a second material coupled to the second end, a first anchoring structure coupled to at least a portion of the first material and a second anchoring structure coupled to at least a portion of the second material as shown in Fig. 1.

Teed et al. fail to teach first and second material (6) is elastic material. However, Peterson teaches it is conventional in the art to construct thread/filaments used to draw the skin near an open wound together for wound closure from elastic material as an obvious design choice (col. 3, lines 29-34).

It would have been obvious to one having ordinary skill in the art to modify Teed et al. by constructing the first and second material from elastic as an obvious choice

since Peterson teaches that either elastic or non-elastic material may be used interchangeably to draw opposing sides of an open wound together for wound closure.

As regards claim 20, as can be seen from Fig. 1, the first anchoring structure and the second anchoring structure each comprise an end piece integrally coupled to the respective first and second material. The applicant should note that the anchoring structures have adhesive thereon for application to the skin.

As regards claim 21, Teed et al. disclose that a loose bandage carrying a medicament may be placed over the adhesive strip (page 1, lines 85-97).

As regards claims 22-25, Teed et al. is silent as to the type of medicinal agent present on the loose bandage and therefore fails to teach the medicinal agent is zinc chromate, zinc chromate impregnated in a hydrocolloid material, alginate, calcium alginate or sodium alginate. However, the examiner contends that the claimed medicinal agents are well known and used in the art. Therefore, it would have been *prima facie* obvious to one having ordinary skill in the art to provide the bandage of Teed et al. with medicinal agents in the form of zinc chromate, zinc chromate impregnated in a hydrocolloid material, alginate, calcium alginate or sodium alginate for the purpose of aiding in healing the wound.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 5,681,579 issued to Freeman discloses calcium

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and sodium alginates and U.S. Patent No. 5,696,169 issued to Otsu et al. disclose the use of zinc chromate.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim M. Lewis whose telephone number is 703.308.1191. The examiner can normally be reached on Mondays and Tuesdays from 5:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on 703.308.1957. The fax phone numbers for the organization where this application or proceeding is assigned are 703.305.3590 for regular communications and 703.305.3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.0858.



Kim M. Lewis
Primary Examiner
Art Unit 3761

kml
September 16, 2003

DETAILED ACTION

Response to Amendment

1. The amendment filed on 4/15/02 has been received and made of record in the application file wrapper. The amendments to the specification (including the Abstract) and claims 73, 75, 76 and 79 have been entered as requested. Claims 104-106 have been added.

Drawings

2. The corrected or substitute drawings were received on 4/15/02. These drawings are approved by the examiner.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 69, 74 and 75 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,811,438 ("Economou"). As regards claim 69, Economou discloses adhesive tape and bandages and a method for its use (*i.e.*, a method for using a dressing mechanism). Specifically, Economou discloses a bandage having a first section, second section and a third section (note the marked-up front page of the

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Economou patent). As can be read from col. 4, lines 59-65, Economou discloses the use of elastic backings having an adhesive coating (*i.e.*, first and third elastic sections having a first side including adhesive thereon). During application the first side of the bandage is applied to a first section of the epidermis, the third side is pulled toward a second section of the epidermis and then the third section is adhered to the second section of the epidermis.

As regards claim 74, the edge (margin) of the second is integral with both the first and third sections.

As regards claim 75, note Fig. 6 and col. 4, lines 37-48.

5. Claims 69-71, 80, 82 and 83 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,843,025 ("Shaari"). As regards claim 69, Shaari discloses a bandage with external anchors comprising a first section, a second section and a third section. The first section being coupled to the second section and the second section being coupled to the third section as shown on the marked-up copy of the front page of the Shaari patent. Shaari further discloses that the first and third sections each have a first side including an adhesive (col. 4, lines 63-67). As regards the method steps, the method of the present invention is practiced by mere usage of the Shaari device.

As regards claims 70, 71 and 79 note the opening in Fig. 6.

As regards claim 80, the portion of the second section that is missing is inherently transparent.

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As regards claim 83, col. 4, lines 4-5 disclose that a medicament may be included in the dressing (*i.e.*, second section).

6. Claims 69, 72 and 73 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,742,826 ("McLorg"). As regards claims 69 and 72, as can be seen from the marked-up front page of the McLorg patent, McLorg discloses a dressing mechanism (cicatrissive strip) comprising a first, second and third sections. All the sections are elastic, comprise openings (11) and have an adhesive coating (col. 4, lines 10-38). Also, the first section is coupled to the second section and the second section is coupled to the third section as shown on the marked-up copy of the front page of the Shaari patent.

As regards the method of applying the dressing mechanism, all the steps are taught by mere usage of the strips.

7. As regards claim 73, the openings are of a particular shape and are spatially oriented with respect to each other.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 84-87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaari. As regards claims 84-87, Shaari fails to teach the specific medicaments claimed by the applicant. However, the examiner contends that such medicaments are well known in the art and the use of the presently claimed medicaments in a wound dressing would have been within the level of ordinary skill in the art.

10. Claims 69 and 81 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,156,641 ("White") in view of Economou. Regarding claims 69 and 81, White discloses a naso-gastric catheter anchor system comprising an adhesive tape (22) having first, second and third sections and an irrigation mechanism, wherein the first section is coupled to the second section and the second section is connected to the third section, and the first and third sections have at least one adhesive side. White fails to teach the adhesive tape is elastic (*i.e.*, elastic first and third sections). However, Economou discloses an elastic adhesive tape to allow for contouring the user's skin. It would have been obvious to one having ordinary skill in the art to modify White with an elastic adhesive tape in order to allow the tape to contour the user's skin.

As regards the method steps, the presently claimed method is practiced by usage of the modified device of White and Economou.

Allowable Subject Matter

11. Claims 76-78 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
12. Claims 104-106 are allowed.

Response to Arguments

In response to applicant's argument that Economou fails to disclose and claim a method for using a dressing mechanism having a first section, second section and a third section, wherein the first and third sections each comprise an elastic material, the examiner disagrees. Economou discloses all features of the claimed invention as stated in the rejection above.

In response to applicant's argument regarding Shaari, the examiner contends that all features of the claimed invention are disclosed and taught by Shaari. The examiner directs applicant's attention to the marked-up front page and Fig.6 of the Shaari patent.

In response to applicant's argument regarding the White and Economou, the examiner agrees that White does not teach elastic first and third sections. However, Economou provides a teaching for elastic first and third sections of a bandage in order

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to allow the bandage to contour the skin of the user. As such, one having ordinary skill in the art would have been motivated to combine the teaching of Economou with White in order to arrive at a dressing that contours the skin.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim M. Lewis whose telephone number is 703.308.1191. The examiner can normally be reached on Mondays to Thursdays from 5:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 703.308.2702. The fax phone numbers for the organization where this application or proceeding is assigned are 703.305.3590 for regular communications and 703.305.3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.0858.

**Kim M. Lewis
Primary Examiner
Art Unit 3761**

kml
August 19, 2003

Application/Control Number: 09/616,088
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DETAILED ACTION

Response to Amendment

The amendment filed on 1/10/02 has been received. The changes to the specification including the Abstract have been entered as requested. Claims 88 and 98-103 have been amended. Claims 104-106 have been added. Claims 88-106 are pending in the instant application.

Drawings

The corrected or substitute drawings were received on 1/10/02. The examiner approves these drawings.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 88, 89, 91, 98, 99, 103 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,234,462 ("Pavletic") in view of U.S. Patent No. 5,843,025 ("Shaari").

As regards claim 88, Pavletic discloses a method for using a dressing comprising all structural features of the recited claim except a coupling section at the treatment section (note Fig. 1, col. 2, line 64 and col. 4, lines 35-39). However, Shaari

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teaches it is known to provide a coupling section at the treatment section of a dressing as an alternate means for attaching a strap to a dressing (col. 4, lines 6-27).

It would have been obvious to one having ordinary skill in the art at the time of invention to modify Pavletic by providing the treatment section with a coupling section as an alternate means for attaching the strap to the dressing, as suggested by Shaari.

As regards the method steps, it is inherent that the method of the present invention is practiced by mere usage of the modified device of Pavletic and Shaari.

As regards claim 89, note the Title of the Pavletic patent, which discloses the dressing is applied to a wound.

As regards claim 90, Pavletic fails to explicitly state that the predetermined area to which the dressing is applied is a burn. The examiner contends that the application of the dressing to any type of a wound, including a burn, is within the level of ordinary skill in the art.

As regards claim 91, Pavletic discloses anchors with and adhesive side (col. 2, lines 59-61).

As regards claim 95, note slit (106) in Fig. 4 of Pavletic.

As regards claim 96, in Fig. 3 of Pavletic, a portion of hooks (64, 66, 68, 70) includes openings for receipt of members (72, 74).

As regards claim 98, Pavletic discloses gauze dressing (50).

As regards claim 99, gauze material is porous, thereby having air vents.

As regards claim 100, gauze has inherent openings.

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As regards claim 101, both Pavletic and Shaari fail to teach the device is transparent. However, the examiner contends that constructing *any portion* of the modified Pavletic device from transparent material would have been obvious to one having ordinary skill in the art in order to allow the wound or dressing to be visualized without removing the device.

As regards claim 103, Pavletic fails to teach medicaments. However, Shaari discloses that medicaments can be impregnated in the dressing for the purpose of treating the wound. It would have been obvious to one having ordinary skill in the art to impregnated medicaments into the dressing for the purpose of treating the wound, as suggested by Shaari.

As regards claim 104, note the rejections of claims 88 and 95, *supra*.

Claims 92-94 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pavletic in view of Shaari as applied to claim 88 above, and further in view of U.S. Patent No. 5,534,010 ("Peterson"). As regards claims 92-94, both Pavletic and Shaari fail to teach openings in the elastic section.

Peterson teaches it is known to provide wound closures with an elastic section having openings for the purpose of viewing the wound. In view of Peterson, it would have been obvious to provide the modified device of Peterson with openings in the elastic section in order to view the wound.

Allowable Subject Matter

Claims 97, 102 and 103 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 105 and 106 allowed.

The indicated allowability of claim 96 is withdrawn in view of the new rejection, *supra*.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim M. Lewis whose telephone number is 703.308.1191. The examiner can normally be reached on Mondays to Thursdays from 5:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 703.308.2702. The fax phone numbers for the organization where this application or proceeding is assigned are 703.305.3590 for regular communications and 703.305.3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.0858.

**Kim M. Lewis
Primary Examiner
Art Unit 3761**

Application/Control Number: 09/616,405

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kml

August 19, 2003

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DETAILED ACTION

Response to Amendment

1. The preliminary amendment filed 7/14/00 has been received. Claims 1-87 have been cancelled as requested. Claims 88-103 are pending.

Drawings

2. The drawings are objected to because Figs. 28, 29 and 30 are cross-sectional views; however, the planes upon which the cross-sectional views are taken is not indicated on the view from which the section is cut by a broken line. MPEP 608.02(h)(3). Correction is required.
3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "10" is not shown in Figs. 2, 3 and 4 as indicated on page 12; "20" is not shown on Fig. 18 as stated on page 18, line 2. Correction is required. The above stated errors in the drawings are illustrative only and is not an exhaustive list. The applicant is advised to peruse the specification and the drawings for other such inconsistencies.

Specification

4. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

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5. The disclosure is objected to because of the following informalities:

On page 12 of the specification, the applicant provides two descriptions for Fig. 19. The first of which seems to be correct, the second, incorrect. Also, the brief description of Fig. 26 on page 12 incorrectly describes the figure.

Additionally, the examiner has noted inconsistencies in the specification. For example, on page 25, line 4 the applicant refers to "325" as "center section", while on page 24, line 22, the applicant refers to "325" as "central section". The applicant is advised to once again thoroughly peruse the specification for other inconsistencies. Appropriate correction is required.

Claim Objections

6. Claim 68 is objected to because of the following informalities: In line 2, the phrase "at leas" should read --at least--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. Claim 60-62 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 60, the examiner is unclear from claim 55 that the elastic material has a first coupling section; therefore, the recitation "said first coupling section of said elastic material"

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lacks proper antecedent basis. The remaining claims are necessarily rejected as being dependent upon a rejected base claim.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 55-60 and 64-65 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,788,660 ("Resnik").

Regarding claim 55, as can be seen from the marked up front page of the Resnik patent, Resnik discloses all features of the claimed invention.

Regarding claim 56, note adhesive (30) of Resnik.

Regarding claim 57, note the opening of the marked up front page of the Resnik patent.

Regarding claim 58, the predetermined shape is a diamond.

Regarding claim 59, the opening is oriented in a predetermined manner and direction, as broadly claimed.

Regarding claim 60, the at least one predetermined anchor structure includes eyelet (13), thereby being a slit.

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Regarding claims 64 and 65, as can be seen from the marked up front page of the Resnik patent, the treatment section has openings/air vents.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 55-57, 63, 64 and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,843,025 ("Pavletic") in view of U.S. Patent No. 5,843,025 ("Shaari").

Regarding claim 55, Pavletic discloses all features of the claim except a coupling section at the treatment section (Fig. 1, col. 2, line 64 and col. 4, lines 35-39).). However, Shaari teaches it is known to provide a coupling section at the treatment section of a dressing as an alternate means for attaching the strap to the dressings (col. 4, lines 6-27).

It would have been obvious to one having ordinary skill in the art at the time of invention to modify Pavletic by providing the treatment section with a coupling section as an alternate means for attaching the strap to the dressing, as suggested by Shaari.

Regarding claim 56, Pavletic discloses anchors with and adhesive side (co. 2, lines 59-61).

Regarding claim 63, Pavletic discloses a gauze dressing (50).

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Regarding claim 64, gauze material is porous, thereby having air vents.

Regarding claim 68, Pavletic fails to teach medicaments. However, Shaari discloses that medicaments can be impregnated in the dressing for the purpose of treating the wound. It would have been obvious to one having ordinary skill in the art to impregnated medicaments into the dressing for the purpose of treating the wound, as suggested by Shaari.

12. Claim 66 is rejected under 35 U.S.C. 103(a) as being unpatentable over Resnik.

Regarding claim 66, Resnik fails to teach the device is transparent. However, the examiner contends that constructing *any portion* of the device of Resnik from transparent material would have been obvious to one having ordinary skill in the art in order to allow the wound to be visualized without removing the device.

Allowable Subject Matter

13. Claims 61, 62 and 67 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim M. Lewis whose telephone number is (703) 308-1191. The examiner can normally be reached on Mondays to Thursdays from 5:30 am to 4:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss, can be reached on (703) 308-2702.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

kml
December 13, 2000